

PSJ:GMT:jm

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
	:	
v.	:	3:CR-12-224
	:	
RICHARD HARLEY	:	(CAPUTO, J.)
	:	
Defendant	:	

MOTION TO QUASH SUBPOENA

Pursuant to Fed. R. Crim. P. 17(c)(2), the Board of Governors of the Federal Reserve System (“Board”) and former Board Chairman Dr. Ben S. Bernanke (“Dr. Bernanke”) hereby move to quash the subpoena issued by the defendant in the above-captioned matter on Dr. Bernanke. In support of their motion, the Board and Dr. Bernanke state as follows:

1. On December 4, 2014, defendant Richard J. Harley served a subpoena for trial testimony and documents on Dr. Bernanke at his office in Washington, D.C. (“Subpoena”). This Motion, therefore, is promptly made.

2. The Subpoena calls for Dr. Bernanke to appear and testify at trial in this matter at 9:00 a.m. on Thursday, December 11, 2014, at the United States Courthouse in Wilkes-Barre, Pennsylvania. The Subpoena further calls for Dr. Bernanke to produce at that time “[a]ll documents or records in [his] possession or under [his] control concerning Richard J. Harley, Joseph Teo Hui Kiat and Yohannes Riyadi, including but not limited to” a series of documents appended to the Subpoena.

3. Pursuant to the Federal Rules of Criminal Procedure, the Court may quash a subpoena “if compliance would be unreasonable or oppressive.” Fed. R. Crim. P. 17(c)(2). Compliance with the Subpoena would be both unreasonable and oppressive in this case.

4. As set forth in his declaration attached hereto as Exhibit B, Dr. Bernanke did not sign the documents attached to the Subpoena that purport to show his signature and never saw them before receiving the Subpoena. He has no knowledge whatsoever of the matters addressed by the Subpoena and has no documents in his possession, custody, or control concerning Richard J. Harley, Joseph Teo Hui Kiat, or Yohannes Riyadi. As a result, there is nothing relevant about which Dr. Bernanke

could testify and it would be both unreasonable and oppressive for him to take substantial time from his busy schedule and travel several hundred miles to so state.

5. Federal Courts allow the compelled testimony of current and former high governmental officials such as Dr. Bernanke only in “extraordinary circumstances,” and no such circumstances are present here.

6. The defendant’s apparent belief that Dr. Bernanke’s testimony will assist him in demonstrating the validity of the documents attached to the Subpoena is not supportable. As his sworn declaration makes clear, Dr. Bernanke did not sign the documents and would so testify at trial. It cannot be the case that individuals may compel the testimony of high-ranking government officials merely by forging their signature.

7. On Thursday, December 4, 2014, counsel for the Board and Dr. Bernanke contacted counsel for the defendant to ask that the Subpoena be withdrawn given Dr. Bernanke’s complete lack of knowledge about the issues or the documents attached to the Subpoena, noting that we would be forced to file a motion to quash if the Subpoena

were not voluntarily withdrawn. On December 5, Defendant's counsel advised that the defendant had not authorized him to withdraw the Subpoena.

For the foregoing reasons, the Board and Dr. Bernanke respectfully request that their motion be granted and that the Subpoena be quashed.

Respectfully submitted,

PETER J. SMITH
UNITED STATES ATTORNEY

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Dated: December 9, 2014

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania, and is a person of such age and discretion as to be competent to serve papers.

That on December 9, 2014, she served copies of the attached:

MOTION TO QUASH SUBPOENA

by electronic mail to:

Address:

Joseph A. O'Brien, Esq.
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Clarks Summit, PA 18411
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/s Jodi Matuszewski
Jodi Matuszewski
Legal Assistant